

*Squire, Sanders & Dempsey*

L.L.P.

*Counsellors at Law*

*1201 Pennsylvania Avenue, N.W.*

*P.O. Box 407*

*Washington, D.C. 20044-0407*

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*Telephone (202) 626-6600*

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*Telecopier (202) 626-6780*

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**By Hand**

Magalie Roman Salas, Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: Ex Parte Written Communication: MM Docket No. 87-268

Dear Ms. Salas:

The Consumer Electronics Manufacturers Association ("CEMA") herewith submits the attached letter to Anita Wallgren of the Office of Commissioner Ness for inclusion in the record of the above-referenced docket. Pursuant to Section 1.1206(a)(1) of the Commission's rules, I have two enclosed copies of the attachment.

Sincerely,



David Alan Nall  
Counsel for the Consumer Electronics  
Manufacturers Association

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Anita Wallgren, Esq.  
Legal Advisor  
Office of Commissioner Ness  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

Re: Ex Parte Written Communication: MM Docket No. 87-268

Dear Ms. Wallgren:

I am writing on behalf of the Consumer Electronics Manufacturers Association (CEMA) to follow up on our conversation of February 10, 1998, and to clarify our analysis of the statutory basis for CEMA's position that Section 614 of the Communications Act requires cable operators to retransmit high definition television (HDTV) broadcast signals in HDTV format.

As we discussed, Section 614(b)(4)(A) of the Communications Act obligates cable operators to carry the signals of local commercial television stations without "material degradation."<sup>1</sup> Our review of the text and legislative history of this provision has not revealed any support for the proposition that this provision does not apply in the digital television (DTV) context. To the contrary, Section 614(b)(4)(B), which is headed "Advanced Television," makes clear that the Commission is obliged to initiate a proceeding after making "modifications of the standards for television broadcast signals" so as to ensure that the nondegradation requirements for cable carriage of advanced television "conform with such modified standards."<sup>2</sup>

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<sup>1</sup> 47 U.S.C. § 614(b)(4)(A).

<sup>2</sup> 47 U.S.C. § 614(b)(4)(B).

Ms. Anita Wallgren  
February 18, 1998  
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The legislative history also indicates that the signal quality standard of Section 614(b)(4)(A) was intended to apply to digital broadcast signals. In this regard, the House Committee Report in its discussion subsection (b)(4)(A) clearly contemplates application of this provision to DTV by stating that "differences in quality are expected among the different types of signals (i.e., digital v. analog, AM v. FM) processed and carried on a cable system."<sup>3</sup> Moreover, the legislative history of subsection (b)(4)(B) explains that that provision is intended "to ensure that cable systems will carry television signals complying with such modified [advanced] broadcast signals in accordance with the objectives of this section," and specifically references HDTV as an example of such modified broadcast signals.<sup>4</sup> Plainly, one of the primary objectives of Section 614 is to ensure that advanced television signals carried by cable operators are retransmitted by cable systems without material degradation. The rulemaking responsibilities placed on the Commission by Section 614(b)(4)(B) should not be read in a manner that would frustrate this statutory purpose.

Section 336 of the Communications Act directs that broadcast signals classified as "ancillary and supplementary" will not be subject to the must-carry requirements of Sections 614 and 615, which of course would obviate the application of the nondegradation requirements of Section 614(b)(4)(A) to such secondary broadcast transmissions.<sup>5</sup> Importantly, that same section of the Act requires that the Commission "limit the broadcasting of ancillary or supplementary services . . . so as to avoid derogation of any advanced television services, including high definition television broadcasts,"<sup>6</sup> thereby explicitly excluding HDTV from the definition of those services not subject to the nondegradation requirements of Section 614(b)(4)(A). In fact, our examination of the statute's text and legislative history has found no support for the proposition that retransmission of HDTV broadcast signals at substantially lower levels of definition would not violate Section 614(b)(4)(A).

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<sup>3</sup> H.R. Rep. No. 628, 102d Cong., 2d Sess. (1992) (LEXIS, p. 108).

<sup>4</sup> H.R. Conf. Rep. No. 862, 102d Cong., 2d Sess., at 67 (1992).

<sup>5</sup> 47 U.S.C. § 336(b)(3).

<sup>6</sup> 47 U.S.C. § 336(b)(2).

*Aquire, Sandens & Dempsey*  
LLP

Ms. Anita Wallgren

February 18, 1998

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We hope that this clarification of the legislative basis for CEMA's position that cable systems must retransmit HDTV signals in HDTV format is useful. Please let me know if you have any questions.

Sincerely,



David Alan Nall  
Counsel for the Consumer Electronics  
Manufacturers Association

cc: David R. Siddall, Esq.  
Magalie Roman Salas ( two copies for inclusion in the record of MM Docket No. 86-268)